

(2) The plan for removal and disposal is reasonable and acceptable to the District Engineer,

(3) Removal operations do not unreasonably interfere with navigation,

(4) All conditions of the Corps of Engineers permit are met, and

(5) Removal operations are pursued diligently.

(b) *Deficiencies.* If the removal actions are not proceeding satisfactorily, the District Engineer will notify the responsible party of the deficiencies and provide a reasonable time for correction. If not corrected promptly, the District Engineer may declare the wreck "abandoned" and proceed with actions toward Corps removal.

§ 245.45 Abandonment.

(a) *Establishing abandonment.* Abandonment is the surrendering of all rights to a vessel (or similar obstruction) and its cargo by the owner, or owners if vessel and cargo are separately owned. In all cases other than emergency, abandonment will be established as a precondition to Corps removal, to avoid a "taking" of private property for public purposes. Abandonment is established by either:

(1) Affirmative action on the part of the owner declaring intention to abandon, or

(2) Failure to commence immediate removal of the obstruction and prosecute such removal diligently.

(b) *Owner declaration.* The Corps of Engineers will not "accept" a notice of abandonment. Any notice of abandonment received by the Corps of Engineers will be acknowledged only, and will stand by itself as a declaration. Abandonment by the operator or lessee alone does not constitute abandonment.

(c) *Non-diligence.* The determination of whether removal is commenced immediately and prosecuted diligently will be made by the District Engineer based on the degree of hazard to navigation, the difficulty and complexity of the removal operation, and the appropriateness of the removal effort. When no removal actions are being undertaken and the District Engineer is unable to identify the owner through investigation or 30 days of public notice, abandonment is presumed.

(d) *Cargo.* If vessel and cargo are separately owned, or ownership of cargo is uncertain, abandonment of vessel and cargo will be established separately.

(e) *Later claims.* After abandonment is established, the owner may no longer undertake removal or make any claim upon the vessel (or other obstruction) or its cargo, unless expressly permitted by the District Engineer.

(f) *Continuing owner liability.* The abandonment of a wreck or other obstruction does not remove the owner's liability for the cost of removal and disposal if removal is undertaken by the Corps of Engineers, except in cases of nonnegligent sinking which occurred prior to November 17, 1986.

§ 245.50 Removal by Corps of Engineers.

(a) *Non-emergency situations.* In non-emergency situations, the District Engineer may undertake removal action (within the limits of delegation) after all of the following conditions have been met:

(1) A determination has been made, in consultation with the Coast Guard, that the obstruction is a hazard to navigation,

(2) The District Engineer and the Coast Guard agree on a course of action which includes the need for removal (or, if a conflict exists, the need for removal has been resolved at higher level),

(3) The District Engineer has made a reasonable attempt to identify the owner, operator, or lessee, and

(4) Abandonment of the wreck or obstruction has been established.

(b) *Emergency actions.* In emergency situations, the District Engineer may bypass (within the limits of delegation) any or all of the four conditions in the preceding paragraph if, in his judgment, circumstances require more immediate action, and if either one of the following conditions are met:

(1) The obstruction impedes or stops navigation, or

(2) The obstruction poses an immediate threat to life, property, or a structure that facilitates navigation.